

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ROGER FRANCIS CARUTHERS,)	
)	
Petitioner,)	
)	1:19CV389
v.)	1:16CR366-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

This matter is before this court for review of the Memorandum Opinion and Recommendation ("Recommendation") filed on July 12, 2022, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 55.) In the Recommendation, the Magistrate Judge recommends that Petitioner's Section 2255 Motion, (Doc. 43), be denied in part and dismissed in part, without issuance of a certificate of appealability. The Recommendation was served on the parties to this action on July 12, 2022, (see Doc. 56).

On August 2, 2022, Petitioner filed a motion for extension of time to file objections. (Doc. 57.) This court granted in part Petitioner's motion and extended the deadline for objections to September 10, 2022, to permit Petitioner an opportunity to file any objections. The record reflects that the court's Order, (Doc. 58), was served by mail to Petitioner's

last known address at Coleman Low, Federal Correctional Institution, P.O. Box 1031, Coleman, Florida 33521. The record further reflects that no objections were filed within the allotted time. Therefore, the court need not make a de novo review and the Magistrate Judge's Recommendation is hereby adopted.¹

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 55), is **ADOPTED**, that the Government's Motion to Dismiss and Response to Petitioner's Motion to Vacate, Set Aside, or Correct Sentence, (Doc. 47), is **GRANTED IN PART**, and that Petitioner's Section 2255 Motion, (Doc. 43), is **DENIED** on the merits as to Grounds One, Two, Three, and Five and is **DISMISSED** as frivolous as to Ground Four. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

¹ The Magistrate Judge very thoughtfully and persuasively suggests this court consider sanctions as to Ground Four. While sanctions are appropriate for Defendant's false and inflammatory allegations, in light of this dismissal the court will not impose separate sanctions. However, Petitioner is hereby WARNED that making a knowingly false statement in a pleading before this court is subject to sanctions to and including contempt.

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 20th day of September, 2022.

William L. Ostun, Jr.
United States District Judge